

§ 679.21

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and (ii) may be put to any use, including but not limited to personal consumption or donation, but must not enter commerce through sale, barter, or trade.

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EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 679.20, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.fdsys.gov.

§ 679.21 Prohibited species bycatch management.

(a) [Reserved]

(b) *General.* (1) See § 679.2 and Table 2b to this part for definition of prohibited species.

(2) *Prohibited species catch restrictions.* The operator of each vessel engaged in directed fishing for groundfish in the GOA or BSAI must:

(i) Minimize its catch of prohibited species.

(ii) After allowing for sampling by an observer, if an observer is aboard, sort its catch immediately after retrieval of the gear and, except for salmon prohibited species catch in the BS and GOA pollock fisheries under paragraph (c) or (h) of this section, or any prohibited species catch as provided (in permits issued) under § 679.26, return all prohibited species, or parts thereof, to the sea immediately, with a minimum of injury, regardless of its condition.

(3) *Rebuttable presumption.* Except as provided under paragraph (c) and (h) of this section and § 679.26, there will be a rebuttable presumption that any prohibited species retained on board a fishing vessel regulated under this part was caught and retained in violation of this section.

(4) *Prohibited species taken seaward of the EEZ off Alaska.* No vessel fishing for groundfish in the GOA or BSAI may have on board any species listed in this paragraph (b) that was taken in waters seaward of these management areas, regardless of whether retention of such species was authorized by other applicable laws.

(5) *Sablefish as a prohibited species.* (See § 679.24(c)(2)(ii).)

(6) *Addresses.* Unless otherwise specified, submit information required under this section to NMFS as follows: by mail to the Regional Administrator,

NMFS, P.O. Box 21668, Juneau, AK 99802; by courier to the Office of the Regional Administrator, 709 West 9th St., Juneau, AK 99801; or by fax to 907-586-7465. Forms are available on the NMFS Alaska Region Web site (<http://alaskafisheries.noaa.gov/>).

(c) *Salmon taken in the BS pollock fisheries.* Regulations in this paragraph apply to vessels directed fishing for pollock in the BS, including pollock CDQ, and processors taking deliveries from these vessels.

(1) *Salmon discard.* The operator of a vessel and the manager of a shoreside processor or SFP must not discard any salmon or transfer or process any salmon under the PSD Program at § 679.26, if the salmon were taken incidental to a directed fishery for pollock in the BS, until the number of salmon has been determined by the observer and the observer's collection of any scientific data or biological samples from the salmon has been completed.

(2) *Salmon retention and storage—* (i) Operators of catcher/processors or motherships must:

(A) Sort and transport all salmon bycatch from each haul to an approved storage location adjacent to the observer sampling station that allows an observer free and unobstructed access to the salmon (see § 679.28(d)(2)(i) and (d)(7)). The salmon storage location must remain in view of the observer from the observer sampling station at all times during the sorting of the haul.

(B) If, at any point during sorting of the haul or delivery for salmon, the salmon are too numerous to be contained in the salmon storage location, all sorting must cease and the observer must be given the opportunity to count the salmon in the storage location and collect scientific data or biological samples. Once the observer has completed all counting and sampling duties for the counted salmon, the salmon must be removed by vessel personnel from the approved storage location, in the presence of the observer.

(C) Before sorting of the next haul may begin, the observer must be given the opportunity to complete the count of salmon and the collection of scientific data or biological samples from the previous haul.

(D) Ensure no salmon of any species pass the observer sample collection point, as identified in the scale drawing of the observer sample station.

(ii) Operators of vessels delivering to shoreside processors or stationary floating processors must:

(A) Store in a refrigerated saltwater tank all salmon taken as bycatch in trawl operations.

(B) Deliver all salmon to the processor receiving the vessel's BS pollock catch.

(iii) Shoreside processors or stationary floating processors must:

(A) Comply with the requirements in § 679.28(g)(7)(vii) for the receipt, sorting, and storage of salmon from deliveries of catch from the BS pollock fishery.

(B) Ensure no salmon of any species pass beyond the last point where sorting of fish occurs, as identified in the scale drawing of the plant in the CMCP.

(C) Sort and transport all salmon of any species to the salmon storage container identified in the CMCP (see § 679.28(g)(7)(vi)(C) and (x)(F)). The salmon must remain in that salmon storage container and within the view of the observer at all times during the offload.

(D) If, at any point during the offload, salmon are too numerous to be contained in the salmon storage container, the offload and all sorting must cease and the observer must be given the opportunity to count the salmon and collect scientific data or biological samples. The counted salmon then must be removed from the area by plant personnel in the presence of the observer.

(E) At the completion of the offload, the observer must be given the opportunity to count the salmon and collect scientific data or biological samples.

(F) Before sorting of the next offload of catch from the BS pollock fishery may begin, the observer must be given the opportunity to complete the count of salmon and the collection of scientific data or biological samples from the previous offload of catch from the BS pollock fishery.

(3) *Assignment of crew to assist observer.* Operators of vessels and managers of shoreside processors and SFPs

that are required to retain salmon under paragraph (c)(1) of this section must designate and identify to the observer aboard the vessel, or at the shoreside processor or SFP, a crew person or employee responsible for ensuring all sorting, retention, and storage of salmon occurs according to the requirements of (c)(2) of this section.

(4) *Discard of salmon.* Except for salmon under the PSD Program at § 679.26, all salmon must be returned to the sea as soon as is practicable, following notification by an observer that the number of salmon has been determined and the collection of scientific data or biological samples has been completed.

(d) *GOA halibut PSC limits.* This section is applicable for vessels engaged in directed fishing for groundfish in the GOA.

(1) *Notification*—(i) *Proposed and final limits and apportionments.* NMFS will publish in the FEDERAL REGISTER proposed and final halibut PSC limits, and apportionments thereof, in the notification required under § 679.20.

(ii) *Modification of limits.* NMFS, by notification in the FEDERAL REGISTER, may change the halibut PSC limits during the year for which they were specified, based on new information of the types set forth in this paragraph (d)(1).

(2) *Public comment.* NMFS will accept public comment on the proposed halibut PSC limits, and apportionments thereof, for a period specified in the notice of proposed halibut PSC limits published in the FEDERAL REGISTER. NMFS will consider comments received on proposed halibut PSC limits and, after consultation with the Council, will publish notification in the FEDERAL REGISTER specifying the final halibut PSC limits and apportionments thereof.

(3) *Trawl gear proposed halibut limit*—(i) *Notification.* After consultation with the Council, NMFS will publish notification in the FEDERAL REGISTER specifying the proposed halibut PSC limit for vessels using trawl gear.

(ii) *Bycatch allowance.* The halibut PSC limit specified for vessels using trawl gear may be further apportioned as bycatch allowances to the fishery categories listed in paragraph (d)(3)(iii) of this section, based on each

category's proportional share of the anticipated halibut bycatch mortality during a fishing year and the need to optimize the amount of total groundfish harvest under the halibut PSC limit. The sum of all bycatch allowances will equal the halibut PSC limit established under this paragraph (d).

(iii) *Trawl fishery categories.* For purposes of apportioning the trawl halibut PSC limit among fisheries, the following fishery categories are specified and defined in terms of round-weight equivalents of these GOA groundfish species for which a TAC has been specified under § 679.20:

(A) *Shallow-water species fishery.* Fishing with trawl gear during any weekly reporting period that results in a retained aggregate catch of pollock, Pacific cod, shallow-water flatfish, flathead sole, Atka mackerel, and "other species" that is greater than the retained aggregate amount of other GOA groundfish species or species group.

(B) *Deep-water species fishery.* Fishing with trawl gear during any weekly reporting period that results in a retained catch of groundfish and is not a shallow-water species fishery as defined under paragraph (d)(3)(iii)(A) of this section.

(4) *Hook-and-line and pot gear fisheries—(i) Notification.* After consultation with the Council, NMFS will publish notification in the FEDERAL REGISTER specifying the proposed and final halibut PSC limits for vessels using hook-and-line gear. The notification also may specify a halibut PSC limit for the pot gear fisheries.

(ii) *Halibut bycatch allowance.* The halibut PSC limit specified for vessels using hook-and-line gear may be fur-

ther apportioned, as bycatch allowances, to the fishery categories listed in paragraph (d)(4)(iii) of this section, based on each category's proportional share of the anticipated halibut bycatch mortality during a fishing year and the need to optimize the amount of total groundfish harvest under the halibut PSC limit. The sum of all bycatch allowances will equal the halibut PSC limit established under this paragraph (d).

(iii) *Hook-and-line fishery categories.* For purposes of apportioning the hook-and-line halibut PSC limit among fisheries, the following fishery categories are specified and defined in terms of round-weight equivalents of those GOA groundfish species for which a TAC has been specified under § 679.20.

(A) *Demersal shelf rockfish in the Southeast Outside District.* Fishing with hook-and-line gear in the Southeast Outside District of the Eastern GOA regulatory area (SEEO) during any weekly reporting period that results in a retained catch of demersal shelf rockfish that is greater than the retained amount of any other fishery category defined under this paragraph (d)(4)(iii).

(B) *Other hook-and-line fishery.* Fishing with hook-and-line gear during any weekly reporting period that results in a retained catch of groundfish and is not a demersal shelf rockfish fishery defined under paragraph (d)(4)(iii)(A) of this section, as follows—

(1) Catcher vessels using hook-and-line gear will be apportioned part of the GOA halibut PSC limit in proportion to the total Western and Central GOA Pacific cod allocations, where X is equal to annual TAC, as follows—

$$\text{Total HAL PSC limit mt} \times \frac{(1.4\%(X_{WGOA}) + 21.3\%(X_{CGOA}))}{((19.8\% + 1.4\%)(X_{WGOA})) + ((5.1\% + 21.3\%)(X_{CGOA}))}$$

(2) Catcher/processors using hook-and-line gear will be apportioned part of the GOA halibut PSC limit in proportion to the total Western and Central GOA Pacific cod allocations, where X is equal to annual TAC, as follows—

$$\text{Total HAL PSC limit mt} \times \frac{(19.8\%(X_{WGOA}) + 5.1\%(X_{CGOA}))}{((19.8\% + 1.4\%)(X_{WGOA}) + ((5.1\% + 21.3\%)(X_{CGOA})))}$$

(3) No later than November 1, any halibut PSC limit allocated under paragraph (d)(4)(iii)(B) of this section not projected by the Regional Administrator to be used by one of the hook-and-line sectors during the remainder of the fishing year will be made available to the other sector.

(5) *Seasonal apportionments*—(i) *General*. NMFS, after consultation with the Council, may apportion each halibut PSC limit or bycatch allowance specified under this paragraph (d) on a seasonal basis.

(ii) *Factors to be considered*. NMFS will base any seasonal apportionment of a halibut PSC limit or bycatch allowance on the following types of information:

(A) Seasonal distribution of halibut.

(B) Seasonal distribution of target groundfish species relative to halibut distribution.

(C) Expected halibut bycatch needs, on a seasonal basis, relative to changes in halibut biomass and expected catches of target groundfish species.

(D) Expected variations in bycatch rates throughout the fishing year.

(E) Expected changes in directed groundfish fishing seasons.

(F) Expected start of fishing effort.

(G) Economic effects of establishing seasonal halibut allocations on segments of the target groundfish industry.

(iii) *Unused seasonal apportionments*.

(A) Unused seasonal apportionments of halibut PSC limits specified for trawl, hook-and-line, or pot gear will be added to the respective seasonal apportionment for the next season during a current fishing year; and

(B) An amount not greater than 55 percent of the halibut PSC that had been allocated as CQ and that has not been used by a rockfish cooperative will be added to the last seasonal apportionment for trawl gear during the current fishing year:

(1) After November 15; or

(2) After the effective date of a termination of fishing declaration according

to the provisions set out in § 679.4(n)(2), whichever occurs first.

(C) The amount of unused halibut PSC not reapportioned under the provisions described in § 679.21(d)(5)(iii)(B) will not be available for use as halibut PSC by any person for the remainder of that calendar year.

(iv) *Seasonal apportionment exceeded*. If a seasonal apportionment of a halibut PSC limit specified for trawl, hook-and-line, pot gear, and/or operational type is exceeded, the amount by which the seasonal apportionment is exceeded will be deducted from the respective apportionment for the next season during a current fishing year.

(6) *Apportionment among regulatory areas and districts*. Each halibut PSC limit specified under this paragraph (d) also may be apportioned among the GOA regulatory areas and districts.

(7) *Halibut PSC closures*—(i) *Trawl gear fisheries*. If, during the fishing year, the Regional Administrator determines that U.S. fishing vessels participating in either of the trawl fishery categories listed in paragraph (d)(3)(iii) (A) or (B) of this section will catch the halibut bycatch allowance, or apportionments thereof, specified for that fishery category under paragraph (d)(1) of this section, NMFS will publish notification in the FEDERAL REGISTER closing the entire GOA or the applicable regulatory area or district to directed fishing with trawl gear for each species and/or species group that comprises that fishing category; provided, however, that when the halibut bycatch allowance, or seasonal apportionment thereof, specified for the shallow-water species fishery is reached, fishing for pollock by vessels using pelagic trawl gear may continue, consistent with other provisions of this part.

(ii) *Hook-and-line fisheries*. If, during the fishing year, the Regional Administrator determines that U.S. fishing vessels participating in any of the three hook-and-line gear and operational type fishery categories listed under paragraph (d)(4)(iii) of this section will catch the halibut bycatch allowance,

or apportionments thereof, specified for that fishery category under paragraph (d)(1) of this section, NMFS will publish notification in the FEDERAL REGISTER closing the entire GOA or the applicable regulatory area, district, or operation type to directed fishing with hook-and-line gear for each species and/or species group that comprises that fishing category.

(iii) *Pot gear fisheries.* If, during the fishing year, the Regional Administrator determines that the catch of halibut by operators of vessels using pot gear to participate in a directed fishery for groundfish will reach the halibut PSC limit, or seasonal apportionment thereof, NMFS will publish notification in the FEDERAL REGISTER prohibiting directed fishing for groundfish by vessels using pot gear for the remainder of the season to which the halibut PSC limit or seasonal apportionment applies.

(iv) *Nonpelagic trawl gear fisheries—*(A) *Continued fishing under specified conditions.* When the vessels to which a halibut PSC limit applies have caught an amount of halibut equal to that PSC, the Regional Administrator may, by notification in the FEDERAL REGISTER, allow some or all of those vessels to continue to fish for groundfish using nonpelagic trawl gear under specified conditions, subject to the other provisions of this part.

(B) *Factors to be considered.* In authorizing and conditioning such continued fishing with bottom-trawl gear, the Regional Administrator will take into account the following considerations, and issue relevant findings:

(1) The risk of biological harm to halibut stocks and of socio-economic harm to authorized halibut users posed

by continued bottom trawling by these vessels.

(2) The extent to which these vessels have avoided incidental halibut catches up to that point in the year.

(3) The confidence of the Regional Administrator in the accuracy of the estimates of incidental halibut catches by these vessels up to that point in the year.

(4) Whether observer coverage of these vessels is sufficient to assure adherence to the prescribed conditions and to alert the Regional Administrator to increases in their incidental halibut catches.

(5) The enforcement record of owners and operators of these vessels, and the confidence of the Regional Administrator that adherence to the prescribed conditions can be assured in light of available enforcement resources.

(8) *AFA halibut bycatch limitations.* Halibut bycatch limits for AFA catcher vessels will be established according to the procedure and formula set out in § 679.64(b) and managed through directed fishing closures for AFA catcher vessels in the groundfish fisheries to which the halibut bycatch limit applies.

(e) *BSAI PSC limits—*(1) *Trawl gear—*(i) *Red king crab in Zone 1.* The PSC limit of red king crab caught by trawl vessels while engaged in directed fishing for groundfish in Zone 1 during any fishing year will be specified for up to two fishing years by NMFS, after consultation with the Council, based on abundance and spawning biomass of red king crab using the criteria set out under paragraphs (e)(1)(i)(A) through (C) of this section. The following table refers to the PSC limits for red king crab that you must follow in Zone 1:

When the number of mature female red king crab is ...	The zone 1 PSC limit will be ...
(A) At or below the threshold of 8.4 million mature crab or the effective spawning biomass is less than or equal to 14.5 million lb (6,577 mt)	32,000 red king crab.
(B) Above the threshold of 8.4 million mature crab and the effective spawning biomass is greater than 14.5 but less than 55 million lb (24,948 mt)	97,000 red king crab.
(C) Above the threshold of 8.4 million mature crab and the effective spawning biomass is equal to or greater than 55 million lb	197,000 red king crab.

(ii) *Tanner crab (*C. bairdi*).* The PSC limit of *C. bairdi* crabs caught by trawl vessels while engaged in directed fishing for groundfish in Zones 1 and 2 dur-

ing any fishing year will be specified for up to two fishing years by NMFS under paragraph (e)(6) of this section, based on total abundance of *C. bairdi*

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crabs as indicated by the NMFS annual bottom trawl survey, using the criteria set out under paragraphs (e)(1)(ii)(A) and (B) of this section.

(A) The following table refers to the PSC limits for *C. bairdi* that you must follow in Zone 1:

When the total abundance of <i>C. bairdi</i> crabs is ...	The PSC limit will be ...
(1) 150 million animals or less	0.5 percent of the total abundance minus 20,000 animals
(2) Over 150 million to 270 million animals	730,000 animals
(3) Over 270 million to 400 million animals	830,000 animals
(4) Over 400 million animals	980,000 animals

(B) This table refers to the PSC limits for *C. bairdi* that you must follow in Zone 2.

When the total abundance of <i>C. bairdi</i> crabs is ...	The PSC limit will be ...
(1) 175 million animals or less	1.2 percent of the total abundance minus 30,000 animals
(2) Over 175 million to 290 million animals	2,070,000 animals
(3) Over 290 million to 400 million animals	2,520,000 animals
(4) Over 400 million animals	2,970,000 animals

(iii) *C. opilio*. The PSC limit of *C. opilio* caught by trawl vessels while engaged in directed fishing for groundfish in the COBLZ will be specified annually by NMFS under paragraph (e)(6) of this section, based on total abundance of *C. opilio* as indicated by the NMFS annual bottom trawl survey using the following criteria:

(A) *PSC Limit*. The PSC limit will be 0.1133 percent of the total abundance, minus 150,000 *C. opilio* crabs, unless;

(B) *Minimum PSC Limit*. If 0.1133 percent multiplied by the total abundance is less than 4.5 million, then the minimum PSC limit will be 4.350 million animals; or

(C) *Maximum PSC Limit*. If 0.1133 percent multiplied by the total abundance is greater than 13 million, then the maximum PSC limit will be 12.850 million animals.

(iv) *Halibut*. The PSC limit of halibut caught while conducting any trawl fishery for groundfish in the BSAI during any fishing year is an amount of halibut equivalent to 3,675 mt of halibut mortality.

(v) *Pacific herring*. The PSC limit of Pacific herring caught while conducting any domestic trawl fishery for groundfish in the BSAI is 1 percent of the annual eastern Bering Sea herring biomass. The PSC limit will be apportioned into annual herring PSC allowances, by target fishery, and will be published along with the annual herring PSC limit in the FEDERAL REGISTER with the proposed and final groundfish specifications defined in § 679.20.

(vi) *BS Chinook salmon*. See paragraph (f) of this section.

(vii) *Non-chinook salmon*. The PSC limit of non-chinook salmon caught by vessels using trawl gear during August 15 through October 14 in the CVOA is 42,000 fish.

(viii) *AI Chinook salmon*. The trawl closures identified in paragraph (e)(7)(viii) of this section will take effect when the Regional Administrator determines that the AI PSC limit of 700 Chinook salmon caught while harvesting pollock in the AI between January 1 and December 31 is attained.

(2) *Nontrawl gear, halibut*. The PSC limit of halibut caught while conducting any nontrawl fishery for groundfish in the BSAI during any fishing year is the amount of halibut equivalent to 900 mt of halibut mortality.

(3) *PSC apportionment to trawl fisheries*—(i) *General*—(A) *PSQ reserve*. The following allocations of the trawl gear PSC limits are made to the CDQ Program as PSQ reserves. The PSQ reserves are not apportioned by gear or fishery.

(1) *Crab PSQ*. 10.7 percent of each PSC limit set forth in paragraphs (e)(1)(i) through (iii) of this section.

(2) *Halibut PSQ*. (i) 276 mt of the total PSC limit set forth in paragraph (e)(1)(iv) of this section in each year for 2008 and 2009.

(ii) 326 mt of the total PSC limit set forth in paragraph (e)(1)(iv) of this section effective in 2010 and each year thereafter.

(3) *Salmon PSQ*—(i) *Chinook salmon*. For BS Chinook salmon, see paragraph (f) of this section. For AI Chinook salmon, 7.5 percent of the PSC limit set forth in paragraph (e)(1)(viii) of this section.

(ii) *Non-Chinook salmon*. 10.7 percent of the PSC limit set forth in paragraph (e)(1)(vii) of this section.

(B) *Fishery categories*. NMFS, after consultation with the Council and after subtraction of PSQ reserves and PSC CQ assigned to Amendment 80 cooperatives, will apportion each PSC limit set forth in paragraphs (e)(1)(i) through (vii) of this section into bycatch allowances for fishery categories defined in paragraph (e)(3)(iv) of this section, based on each category's proportional share of the anticipated incidental catch during a fishing year of prohibited species for which a PSC limit is specified and the need to optimize the amount of total groundfish harvested under established PSC limits.

(ii) *Red king crab, C. bairdi, C. opilio, and halibut*—(A) *General*. For vessels engaged in directed fishing for groundfish in the BSAI, other than vessels fishing under a CQ permit assigned to an Amendment 80 cooperative, the PSC limits for red king crab, *C. bairdi*, *C. opilio*, and halibut will be apportioned to the trawl fishery categories defined in paragraphs (e)(3)(iv)(B) through (F) of this section.

(B) *Red King Crab Savings Subarea (RKCSS)*. (1) The RKCSS is the portion of the RKCSA between 56°00' and 56°10' N. lat. Notwithstanding other provisions of this part, vessels using non-pelagic trawl gear in the RKCSS may engage in directed fishing for groundfish in a given year, if the ADF&G had established a guideline harvest level the previous year for the red king crab fishery in the Bristol Bay area.

(2) When the RKCSS is open to vessels fishing for groundfish with non-pelagic trawl gear under paragraph (e)(3)(ii)(B)(1) of this section, NMFS, after consultation with the Council, will specify an amount of the red king crab bycatch limit annually established under paragraph (e)(1)(i) of this section for the RKCSS. The amount of the red king crab bycatch limit specified for the RKCSS will not exceed an amount equivalent to 25 percent of the red king crab PSC allowance and will be based on the need to optimize the groundfish harvest relative to red king crab bycatch.

(C) *Incidental catch in midwater pollock fishery*. Any amount of red king

crab, *C. bairdi*, *C. opilio*, or halibut that is incidentally taken in the midwater pollock fishery as defined in paragraph (e)(3)(iv)(A) of this section will be counted against the bycatch allowances specified for the pollock/Atka mackerel/“other species” category defined in paragraph (e)(3)(iv)(F) of this section.

(iii) *Pacific herring*. The PSC limit for Pacific herring will be apportioned to the BSAI trawl fishery categories defined in paragraphs (e)(3)(iv) (A) through (F) of this section.

(iv) *Trawl fishery categories*. For purposes of apportioning trawl PSC limits among fisheries, other than PSC CQ assigned to an Amendment 80 cooperative, the following fishery categories are specified and defined in terms of round-weight equivalents of those groundfish species or species groups for which a TAC has been specified under § 679.20.

(A) *Midwater pollock fishery*. Fishing with trawl gear during any weekly reporting period that results in a catch of pollock that is 95 percent or more of the total amount of groundfish caught during the week.

(B) *Flatfish fishery*. Fishing with trawl gear during any weekly reporting period that results in a retained aggregate amount of rock sole, “other flatfish,” and yellowfin sole that is greater than the retained amount of any other fishery category defined under this paragraph (e)(3)(iv).

(1) *Yellowfin sole fishery*. Fishing with trawl gear during any weekly reporting period that is defined as a flatfish fishery under this paragraph (e)(3)(iv)(B) and results in a retained amount of yellowfin sole that is 70 percent or more of the retained aggregate amount of rock sole, “other flatfish,” and yellowfin sole.

(2) *Rock sole/flathead sole/“other flatfish” fishery*. Fishing with trawl gear during any weekly reporting period that is defined as a flatfish fishery under this paragraph (e)(3)(iv)(B) and is not a yellowfin sole fishery as defined under paragraph (e)(3)(iv)(B)(1) of this section.

(C) *Greenland turbot/arrowtooth flounder/sablefish fishery*. Fishing with trawl

gear during any weekly reporting period that results in a retained aggregate amount of Greenland turbot, arrowtooth flounder, and sablefish that is greater than the retained amount of any other fishery category defined under this paragraph (e)(3)(iv).

(D) *Rockfish fishery*. Fishing with trawl gear during any weekly reporting period that results in a retained aggregate amount of rockfish species that is greater than the retained amount of any other fishery category defined under this paragraph (e)(3)(iv).

(E) *Pacific cod fishery*. Fishing with trawl gear during any weekly reporting period that results in a retained aggregate amount of Pacific cod that is greater than the retained amount of any other groundfish fishery category defined under this paragraph (e)(3)(iv).

(F) *Pollock/Atka mackerel/“other species”*. Fishing with trawl gear during any weekly reporting period that results in a retained aggregate amount of pollock other than pollock harvested in the midwater pollock fishery defined under paragraph (e)(3)(iv)(A) of this section, Atka mackerel, and “other species” that is greater than the retained amount of any other fishery category defined under this paragraph (e)(3)(iv).

(v) *AFA prohibited species catch limitations*. Halibut and crab PSC limits for the AFA catcher/processor sector and the AFA trawl catcher vessel sector will be established according to the procedures and formulas set out in §679.64(a) and (b) and managed through directed fishing closures for the AFA catcher/processor sector and the AFA trawl catcher vessel sector in the groundfish fisheries for which the PSC limit applies.

(vi) *Amendment 80 sector bycatch limitations*. (A) Halibut and crab bycatch limits for the Amendment 80 sector in the BSAI will be established according to the procedure and formulae set out in §679.91(d) through (f); and

(B) Halibut and crab PSC assigned to the Amendment 80 limited access fishery will be managed through directed fishing closures for Amendment 80 vessels to which the halibut and crab bycatch limits apply.

(4) *Halibut apportionment to nontrawl fishery categories*—(i) *General*. (A) An

amount equivalent to 7.5 percent of the nontrawl gear halibut PSC limit set forth in paragraph (e)(2) of this section is allocated to the groundfish CDQ Program as PSQ reserve. The PSQ reserve is not apportioned by gear or fishery.

(B) NMFS, after consultation with the Council and after subtraction of the PSQ reserve, will apportion the halibut PSC limit for nontrawl gear set forth under paragraph (e)(2) of this section into bycatch allowances for the nontrawl fishery categories defined under paragraph (e)(4)(ii) of this section.

(C) Apportionment of the nontrawl halibut PSC limit among the nontrawl fishery categories will be based on each category’s proportional share of the anticipated bycatch mortality of halibut during a fishing year and the need to optimize the amount of total groundfish harvested under the nontrawl halibut PSC limit.

(D) The sum of all bycatch allowances of any prohibited species will equal its PSC limit.

(ii) *Nontrawl fishery categories*. For purposes of apportioning the nontrawl halibut PSC limit among fisheries, the following fishery categories are specified and defined in terms of round-weight equivalents of those BSAI groundfish species for which a TAC has been specified under §679.20.

(A) *Pacific cod hook-and-line catcher vessel fishery*. Catcher vessels fishing with hook-and-line gear during any weekly reporting period that results in a retained catch of Pacific cod that is greater than the retained amount of any other groundfish species.

(B) *Pacific cod hook-and-line catcher/processor fishery*. Catcher/processors fishing with hook-and-line gear during any weekly reporting period that results in a retained catch of Pacific cod that is greater than the retained amount of any other groundfish species.

(C) *Sablefish hook-and-line fishery*. Fishing with hook-and-line gear during any weekly reporting period that results in a retained catch of sablefish that is greater than the retained amount of any other groundfish species.

(D) *Groundfish jig gear fishery.* Fishing with jig gear during any weekly reporting period that results in a retained catch of groundfish.

(E) *Groundfish pot gear fishery.* Fishing with pot gear under restrictions set forth in § 679.24(b) during any weekly reporting period that results in a retained catch of groundfish.

(F) *Other nontrawl fisheries.* Fishing for groundfish with nontrawl gear during any weekly reporting period that results in a retained catch of groundfish and does not qualify as a Pacific cod hook-and-line catcher vessel fishery, a Pacific cod hook-and-line catcher/processor fishery, a sablefish hook-and-line fishery, a jig gear fishery, or a groundfish pot gear fishery as defined under this paragraph (e)(4)(ii).

(5) *Seasonal apportionments of bycatch allowances*—(i) *General.* NMFS, after consultation with the Council, may apportion fishery bycatch allowances on a seasonal basis.

(ii) *Factors to be considered.* NMFS will base any seasonal apportionment of a bycatch allowance on the following types of information:

(A) Seasonal distribution of prohibited species;

(B) Seasonal distribution of target groundfish species relative to prohibited species distribution;

(C) Expected prohibited species bycatch needs on a seasonal basis relevant to change in prohibited species biomass and expected catches of target groundfish species;

(D) Expected variations in bycatch rates throughout the fishing year;

(E) Expected changes in directed groundfish fishing seasons;

(F) Expected start of fishing effort; or

(G) Economic effects of establishing seasonal prohibited species apportionments on segments of the target groundfish industry.

(iii) *Seasonal trawl fishery bycatch allowances*—(A) *Unused seasonal apportionments.* Unused seasonal apportionments of trawl fishery bycatch allowances made under this paragraph (e)(5) will be added to its respective fishery bycatch allowance for the next season during a current fishing year.

(B) *Seasonal apportionment exceeded.* If a seasonal apportionment of a trawl

fishery bycatch allowance made under paragraph (d)(5) of this section is exceeded, the amount by which the seasonal apportionment is exceeded will be deducted from its respective apportionment for the next season during a current fishing year.

(iv) *Seasonal nontrawl fishery bycatch allowances*—(A) *Unused seasonal apportionments.* Any unused portion of a seasonal nontrawl fishery bycatch allowance made under this paragraph (e)(5) will be reapportioned to the fishery's remaining seasonal bycatch allowances during a current fishing year in a manner determined by NMFS, after consultation with the Council, based on the types of information listed under paragraph (e)(5)(ii) of this section.

(B) *Seasonal apportionment exceeded.* If a seasonal apportionment of a nontrawl fishery bycatch allowance made under this paragraph (e)(5) is exceeded, the amount by which the seasonal apportionment is exceeded will be deducted from the fishery's remaining seasonal bycatch allowances during a current fishing year in a manner determined by NMFS, after consultation with the Council, based on the types of information listed under paragraph (e)(5)(ii) of this section.

(6) *Notification*—(i) *General.* NMFS will publish in the FEDERAL REGISTER, for up to two fishing years, the annual red king crab PSC limit, and, if applicable, the amount of this PSC limit specified for the RKCSS, the annual *C. bairdi* PSC limit, the annual *C. opilio* PSC limit, the proposed and final PSQ reserve amounts, the proposed and final bycatch allowances, the seasonal apportionments thereof, and the manner in which seasonal apportionments of nontrawl fishery bycatch allowances will be managed, as required by paragraph (e) of this section.

(ii) *Public comment.* Public comment will be accepted by NMFS on the proposed annual red king crab PSC limit and, if applicable, the amount of this PSC limit specified for the RKCSS, the annual *C. bairdi* PSC limit, the annual *C. opilio* PSC limit, the proposed and final bycatch allowances, seasonal apportionments thereof, and the manner in which seasonal apportionments of nontrawl fishery bycatch allowances will be managed, for a period specified

in the notice of proposed specifications published in the FEDERAL REGISTER.

(7) *Trawl PSC closures*—(i) *Exception*. When a bycatch allowance, or seasonal apportionment thereof, specified for the pollock/Atka mackerel/“other species” fishery category is reached, only directed fishing for pollock is closed to trawl vessels using nonpelagic trawl gear.

(ii) *Red king crab or C. bairdi Tanner crab, Zone 1, closure*—(A) *General*. Except as provided in paragraph (e)(7)(i) of this section, if, during the fishing year, the Regional Administrator determines that U.S. fishing vessels participating in any of the fishery categories listed in paragraphs (e)(3)(iv)(B) through (F) of this section will catch the Zone 1 bycatch allowance, or seasonal apportionment thereof, of red king crab or *C. bairdi* Tanner crab specified for that fishery category under paragraph (e)(3) of this section, NMFS will publish in the FEDERAL REGISTER the closure of Zone 1, including the RKCSS, to directed fishing for each species and/or species group in that fishery category for the remainder of the year or for the remainder of the season.

(B) *RKCSS*. If, during the fishing year the Regional Administrator determines that the amount of the red king crab PSC limit that is specified for the RKCSS under § 679.21(e)(3)(ii)(B) of this section will be caught, NMFS will publish in the FEDERAL REGISTER the closure of the RKCSS to directed fishing for groundfish with nonpelagic trawl gear for the remainder of the year.

(iii) *C. bairdi Tanner crab, Zone 2, closure*. Except as provided in paragraph (e)(7)(i) of this section, if, during the fishing year, the Regional Administrator determines that U.S. fishing vessels participating in any of the fishery categories listed in paragraphs (e)(3)(iv)(B) through (F) of this section will catch the Zone 2 bycatch allowance, or seasonal apportionment thereof, of *C. bairdi* Tanner crab specified for that fishery category under paragraph (e)(3) of this section, NMFS will publish in the FEDERAL REGISTER the closure of Zone 2 to directed fishing for each species and/or species group in that fishery category for the remainder

of the year or for the remainder of the season.

(iv) *COBLZ*. Except as provided in paragraph (e)(7)(i) of this section, if, during the fishing year, the Regional Administrator determines that U.S. fishing vessels participating in any of the trawl fishery categories listed in paragraphs (e)(3)(iv)(B) through (F) of this section will catch the COBLZ bycatch allowance, or seasonal apportionment thereof, of *C. opilio* specified for that fishery category under paragraph (e)(3) of this section, NMFS will publish in the FEDERAL REGISTER the closure of the COBLZ, as defined in Figure 13 to this part, to directed fishing for each species and/or species group in that fishery category for the remainder of the year or for the remainder of the season.

(v) *Halibut closure*. Except as provided in paragraph (e)(7)(i) of this section, if, during the fishing year, the Regional Administrator determines that U.S. fishing vessels participating in any of the trawl fishery categories listed in paragraphs (e)(3)(iv)(B) through (F) of this section in the BSAI will catch the halibut bycatch allowance, or seasonal apportionment thereof, specified for that fishery category under paragraph (e)(3) of this section, NMFS will publish in the FEDERAL REGISTER the closure of the entire BSAI to directed fishing for each species and/or species group in that fishery category for the remainder of the year or for the remainder of the season.

(vi) *Pacific herring*—(A) *Closure*. Except as provided in paragraph (e)(7)(vi)(B) of this section, if, during the fishing year, the Regional Administrator determines that U.S. fishing vessels participating in any of the fishery categories listed in paragraphs (e)(3)(iv)(A) through (F) of this section in the BSAI will catch the herring bycatch allowance, or seasonal apportionment thereof, specified for that fishery category under paragraph (e)(3) of this section, NMFS will publish in the FEDERAL REGISTER the closure of the Herring Savings Area as defined in Figure 4 to this part to directed fishing for each species and/or species group in that fishery category.

(B) *Exceptions*—(1) *Midwater pollock*. When the midwater pollock fishery

category reaches its specified bycatch allowance, or seasonal apportionment thereof, the Herring Savings Areas are closed to directed fishing for pollock with trawl gear.

(2) *Pollock/Atka mackerel/ "other species"*. When the pollock/Atka mackerel/ "other species" fishery category reaches its specified bycatch allowance, or seasonal apportionment thereof, the Herring Savings Areas are closed to directed fishing for pollock by trawl vessels using nonpelagic trawl gear.

(vii) *Chum salmon*. If the Regional Administrator determines that 42,000 non-Chinook salmon have been caught by vessels using trawl gear during the period August 15 through October 14 in the CVOA, defined under § 679.22(a)(5) and in Figure 2 to this part, NMFS will prohibit directed fishing for pollock for the remainder of the period September 1 through October 14 in the Chum Salmon Savings Area as defined in Figure 9 to this part.

(viii) *AI Chinook salmon*. If, during the fishing year, the Regional Administrator determines that catch of Chinook salmon by vessels using trawl gear while directed fishing for pollock in the AI will reach the annual limit of 700 Chinook salmon, as identified in paragraph (e)(1)(viii) of this section, NMFS, by notification in the FEDERAL REGISTER will close the AI Chinook Salmon Savings Area, as defined in Figure 8 to this part, to directed fishing for pollock with trawl gear on the following dates:

(A) From the effective date of the closure until April 15, and from September 1 through December 31, if the Regional Administrator determines that the annual limit of AI Chinook salmon will be attained before April 15.

(B) From September 1 through December 31, if the Regional Administrator determines that the annual limit of AI Chinook salmon will be attained after April 15.

(ix) *Exemptions*. Trawl vessels participating in directed fishing for pollock and operating under a non-Chinook salmon bycatch reduction ICA approved by NMFS under paragraph (g) of this section are exempt from closures in the Chum Salmon Savings Area described at paragraph (e)(7)(vii) of this

section. See also § 679.22(a)(10) and Figure 9 to part 679.

(8) *Nontrawl halibut closures*. If, during the fishing year, the Regional Administrator determines that U.S. fishing vessels participating in any of the nontrawl fishery categories listed under paragraph (e)(4) of this section will catch the halibut bycatch allowance, or seasonal apportionment thereof, specified for that fishery category under paragraph (e)(4)(ii) of this section, NMFS will publish in the FEDERAL REGISTER the closure of the entire BSAI to directed fishing with the relevant gear type for each species and/or species group in that fishery category.

(f) *BS Chinook Salmon Bycatch Management*—(1) *Applicability*. This paragraph contains regulations governing the bycatch of Chinook salmon in the BS pollock fishery.

(2) *BS Chinook salmon prohibited species catch (PSC) limit*. Each year, NMFS will allocate to AFA sectors, listed in paragraph (f)(3)(ii) of this section, a portion of either the 47,591 Chinook salmon PSC limit or the 60,000 Chinook salmon PSC limit.

(i) An AFA sector will receive a portion of the 47,591 Chinook salmon PSC limit if:

(A) No Chinook salmon bycatch incentive plan agreement (IPA) is approved by NMFS under paragraph (f)(12) of this section; or

(B) That AFA sector has exceeded its performance standard under paragraph (f)(6) of this section.

(ii) An AFA sector will receive a portion of the 60,000 Chinook salmon PSC limit if:

(A) At least one IPA is approved by NMFS under paragraph (f)(12) of this section; and

(B) That AFA sector has not exceeded its performance standard under paragraph (f)(6) of this section.

(3) *Allocations of the BS Chinook salmon PSC limits*—(i) *Seasonal apportionment*. NMFS will apportion the BS Chinook salmon PSC limits annually 70 percent to the A season and 30 percent to the B season, which are described in § 679.23(e)(2)(i) and (ii).

(ii) *AFA sectors*. Each year, NMFS will make allocations of the applicable BS Chinook salmon PSC limit to the following four AFA sectors:

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AFA sector:	Eligible participants are:
(A) Catcher/processor (C/P)	AFA catcher/processers and AFA catcher vessels delivering to AFA catcher/processers, all of which are permitted under § 679.4(l)(2) and § 679.4(l)(3)(i)(A), respectively.
(B) Mothership	AFA catcher vessels harvesting pollock for processing by AFA motherships, all of which are permitted under § 679.4(l)(3)(i)(B) and § 679.4(l)(4), respectively.
(C) Inshore	AFA catcher vessels harvesting pollock for processing by AFA inshore processors, all of which are permitted under § 679.4(l)(3)(i)(C).
(D) CDQ Program	The six CDQ groups authorized under section 305(j)(1)(D) of the Magnuson-Stevens Act to participate in the CDQ Program.

(iii) *Allocations to each AFA sector.* NMFS will allocate the BS Chinook salmon PSC limits to each AFA sector as follows:

(A) If a sector is managed under the 60,000 Chinook salmon PSC limit, the maximum amount of Chinook salmon PSC allocated to each sector in each season and annually is:

AFA sector	A season		B season		Annual total	
	% Allocation	# of Chinook	% Allocation	# of Chinook	% Allocation	# of Chinook
(1) C/P	32.9	13,818	17.9	3,222	28.4	17,040
(2) Mothership	8.0	3,360	7.3	1,314	7.8	4,674
(3) Inshore	49.8	20,916	69.3	12,474	55.6	33,390
(4) CDQ Program	9.3	3,906	5.5	990	8.2	4,896

(B) If the sector is managed under the 47,591 Chinook salmon PSC limit, the sector will be allocated the fol-

lowing amount of Chinook salmon PSC in each season and annually:

AFA sector	A season		B season		Annual total	
	% Allocation	# of Chinook	% Allocation	# of Chinook	% Allocation	# of Chinook
(1) C/P	32.9	10,960	17.9	2,556	28.4	13,516
(2) Mothership	8.0	2,665	7.3	1,042	7.8	3,707
(3) Inshore	49.8	16,591	69.3	9,894	55.6	26,485
(4) CDQ Program	9.3	3,098	5.5	785	8.2	3,883

(iv) *Allocations to the AFA catcher/processor and mothership sectors—*(A) NMFS will issue transferable Chinook salmon PSC allocations under paragraph (f)(3)(iii)(A) or (B) of this section to entities representing the AFA catcher/processor sector and the AFA mothership sector if these sectors meet the requirements of paragraph (f)(8) of this section.

(B) If no entity is approved by NMFS to represent the AFA catcher/processor sector or the AFA mothership sector, then NMFS will manage that sector under a non-transferable Chinook salmon PSC allocation under paragraph (f)(10) of this section.

(v) *Allocations to inshore cooperatives and the AFA inshore open access fishery.* NMFS will further allocate the inshore sector's Chinook salmon PSC allocation under paragraph (f)(3)(iii)(A)(3) or

(B)(3) of this section among the inshore cooperatives and the inshore open access fishery based on the percentage allocations of pollock to each inshore cooperative under § 679.62(a). NMFS will issue transferable Chinook salmon PSC allocations to inshore cooperatives. Any Chinook salmon PSC allocated to the inshore open access fishery will be as a non-transferable allocation managed by NMFS under the requirements of paragraph (f)(10) of this section.

(vi) *Allocations to the CDQ Program.* NMFS will further allocate the Chinook salmon PSC allocation to the CDQ Program under paragraph (f)(3)(iii)(A)(4) or (B)(4) of this section among the six CDQ groups based on each CDQ group's percentage of the CDQ Program pollock allocation in Column B of Table 47d to this part.

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NMFS will issue transferable Chinook salmon PSC allocations to CDQ groups.

(vii) *Accrual of Chinook salmon bycatch to specific PSC allocations.*

If a Chinook salmon PSC allocation is:	Then all Chinook salmon bycatch:
(A) A transferable allocation to a sector-level entity, inshore cooperative, or CDQ group under paragraph (f)(8) of this section.	By any vessel fishing under a transferable allocation will accrue against the allocation to the entity representing that vessel.
(B) A non-transferable allocation to a sector or the inshore open access fishery under paragraph (f)(10) of this section.	By any vessel fishing under a non-transferable allocation will accrue against the allocation established for the sector or inshore open access fishery, whichever is applicable.
(C) The opt-out allocation under paragraph (f)(5) of this section	By any vessel fishing under the opt-out allocation will accrue against the opt-out allocation.

(viii) *Public release of Chinook salmon PSC information.* For each year, NMFS will release to the public and publish on the NMFS Alaska Region Web site (<http://alaskafisheries.noaa.gov/>):

(A) The Chinook salmon PSC allocations for each entity receiving a transferable allocation;

(B) The non-transferable Chinook salmon PSC allocations;

(C) The vessels fishing under each transferable or non-transferable allocation;

(D) The amount of Chinook salmon bycatch that accrues towards each transferable or non-transferable allocation; and

(E) Any changes to these allocations due to transfers under paragraph (f)(9) of this section, rollovers under paragraph (f)(11) of this section, and deduc-

tions from the B season non-transferable allocations under paragraphs (f)(5)(v) or (f)(10)(iii) of this section.

(4) *Reduction in allocations of the 60,000 Chinook salmon PSC limit—(i) Reduction in sector allocations.* NMFS will reduce the seasonal allocation of the 60,000 Chinook salmon PSC limit to the catcher/processor sector, the mothership sector, the inshore sector, or the CDQ Program under paragraph (f)(3)(iii)(A) of this section, if the owner of any permitted AFA vessel in that sector, or any CDQ group, does not participate in an approved IPA under paragraph (f)(12) of this section. The amount of Chinook salmon subtracted from each sector's allocation for those not participating in an approved IPA is calculated as follows:

For each sector:	Reduce the A season allocation by the sum of the amount of Chinook salmon associated with each vessel or CDQ group not participating in an IPA:		Reduce the B season allocation by the sum of the amount of Chinook salmon associated with each vessel or CDQ group not participating in an IPA:		
(A) Catcher/processor	From Column E in Table 47a to this part.	+	From Column F in Table 47a to this part.	=	The annual amount of Chinook salmon subtracted from each sector's Chinook salmon PSC allocation listed at paragraph (f)(3)(iii)(A) of this section.
(B) Mothership	From Column E in Table 47b to this part.	From Column F in Table 47b to this part.		
(C) Inshore	From Column E in Table 47c to this part.	From Column F in Table 47c to this part.		
(D) CDQ Program	From Column C in Table 47d to this part.	From Column D in Table 47d to this part.		

(ii) *Adjustments to the inshore sector and inshore cooperative allocations—(A)* If some members of an inshore cooperative do not participate in an approved IPA, NMFS will only reduce the allocation to the cooperative to which those

vessels belong, or the inshore open access fishery.

(B) If all members of an inshore cooperative do not participate in an approved IPA, the amount of Chinook salmon that remains in the inshore sector's allocation, after subtracting

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the amount in paragraph (f)(4)(i)(C) of this section for the non-participating inshore cooperative, will be reallocated among the inshore cooperatives participating in an approved IPA based on the proportion each participating cooperative represents of the Chinook salmon PSC initially allocated among the participating inshore cooperatives that year.

(iii) *Adjustment to CDQ group allocations.* If a CDQ group does not participate in an approved IPA, the amount of Chinook salmon that remains in the CDQ Program's allocation, after subtracting the amount in paragraph (f)(4)(i)(D) of this section for the non-participating CDQ group, will be reallocated among the CDQ groups participating in an approved IPA based on

the proportion each participating CDQ group represents of the Chinook salmon PSC initially allocated among the participating CDQ groups that year.

(iv) *All members of a sector do not participate in an approved IPA.* If all members of a sector do not participate in an approved IPA, the amount of Chinook salmon that remains after subtracting the amount in paragraph (f)(4)(i) of this section for the non-participating sector will not be reallocated among the sectors that do have members participating in an approved IPA. This portion of the 60,000 PSC limit will remain unallocated for that year.

(5) *Chinook salmon PSC opt-out allocation.* The following table describes requirements for the opt-out allocation:

(i) What is the amount of Chinook salmon PSC that will be allocated to the opt-out allocation in the A season and the B season?	The opt-out allocation will equal the sum of the Chinook salmon PSC deducted under paragraph (f)(4)(i) of this section from the seasonal allocations of each sector with members not participating in an approved IPA.
(ii) Which participants will be managed under the opt-out allocation?	Any AFA permitted vessel or any CDQ group that is a member of a sector eligible under paragraph (f)(2)(ii) of this section to receive allocations of the 60,000 PSC limit, but that is not participating in an approved IPA.
(iii) What Chinook salmon bycatch will accrue against the opt-out allocation?	All Chinook salmon bycatch by participants under paragraph (f)(2)(ii) of this section.
(iv) How will the opt-out allocation be managed?	All participants under paragraph (f)(2)(ii) of this section will be managed as a group under the seasonal opt-out allocations. If the Regional Administrator determines that the seasonal opt-out allocation will be reached, NMFS will publish a notice in the FEDERAL REGISTER closing directed fishing for pollock in the BS, for the remainder of the season, for all vessels fishing under the opt-out allocation.
(v) What will happen if Chinook salmon bycatch by vessels fishing under the opt-out allocation exceeds the amount allocated to the A season opt-out allocation?	NMFS will deduct from the B season opt-out allocation any Chinook salmon bycatch in the A season that exceeds the A season opt-out allocation.
(vi) What will happen if Chinook salmon bycatch by vessels fishing under the opt-out allocation is less than the amount allocated to the A season opt-out allocation?	If Chinook salmon bycatch by vessels fishing under the opt-out allocation in the A season is less than the amount allocated to the opt-out allocation in the A season, this amount of Chinook salmon will not be added to the B season opt-out allocation.
(vii) Is Chinook salmon PSC allocated to the opt-out allocation transferable?	No. Chinook salmon PSC allocated to the opt-out allocation is not transferable.

(6) *Chinook salmon bycatch performance standard.* If the total annual Chinook salmon bycatch by the members of a sector participating in an approved IPA is greater than that sector's annual threshold amount of Chinook salmon in any three of seven consecutive years, that sector will receive an

allocation of Chinook salmon under the 47,591 PSC limit in all future years.

(i) *Annual threshold amount.* Prior to each year, NMFS will calculate each sector's annual threshold amount. NMFS will post the annual threshold amount for each sector on the NMFS Alaska Region Web site (<http://alaskafisheries.noaa.gov/>). At the end of

each year, NMFS will evaluate the Chinook salmon bycatch by all IPA participants in each sector against that sector's annual threshold amount.

(ii) *Calculation of the annual threshold amount.* A sector's annual threshold amount is the annual number of Chinook salmon that would be allocated to that sector under the 47,591 Chinook salmon PSC limit, as shown in the table in paragraph (f)(3)(iii)(B) of this section. If any vessels in a sector do not participate in an approved IPA, NMFS will reduce that sector's annual

threshold amount by the number of Chinook salmon associated with each vessel not participating in an approved IPA. If any CDQ groups do not participate in an approved IPA, NMFS will reduce the CDQ Program's annual threshold amount by the number of Chinook salmon associated with each CDQ group not participating in an approved IPA. NMFS will subtract the following numbers of Chinook salmon from each sector's annual threshold amount for vessels or CDQ groups not participating in an approved IPA:

For each sector:	The amount of Chinook salmon associated with each vessel or CDQ group not participating in an IPA:
(A) Catcher/processor	From Column G of Table 47a to this part;
(B) Mothership	From Column G of Table 47b to this part;
(C) Inshore	From Column G of Table 47c to this part;
(D) CDQ Program	From Column E of Table 47d to this part.

(iii) If NMFS determines that a sector has exceeded its performance standard by exceeding its annual threshold amount in any three of seven consecutive years, NMFS will issue a notification in the FEDERAL REGISTER that the sector has exceeded its performance standard and that NMFS will allocate to that sector the amount of Chinook salmon in the table in paragraph (f)(3)(iii)(B) of this section in all subsequent years. All members of the affected sector will fish under this lower allocation regardless of whether a vessel or CDQ group within that sector participates in an approved IPA.

(7) *Replacement vessels.* If an AFA permitted vessel listed in Tables 47a through 47c to this part is no longer eligible to participate in the BS pollock fishery or if a vessel replaces a currently eligible vessel, the portion and number of Chinook salmon associated with that vessel in Tables 47a through 47c to this part will be assigned to the replacement vessel or distributed among other eligible vessels in the sector based on the procedures in the law, regulation, or private contract that accomplishes the vessel removal or replacement action until Tables 47a through 47c to this part can be revised as necessary.

(8) *Entities eligible to receive transferable Chinook salmon PSC allocations—*(i) NMFS will issue transferable Chinook

salmon PSC allocations to the following entities, if these entities meet all of the applicable requirements of this part.

(A) *Inshore cooperatives.* NMFS will issue transferable Chinook salmon PSC allocations to the inshore cooperatives permitted annually under § 679.4(l)(6). The representative and agent for service of process (see definition at § 679.2) for an inshore cooperative is the cooperative representative identified in the application for an inshore cooperative fishing permit issued under § 679.4(l)(6), unless the inshore cooperative representative notifies NMFS in writing that a different person will act as its agent for service of process for purposes of this paragraph (f). An inshore cooperative is not required to submit an application under paragraph (f)(8)(ii) of this section to receive a transferable Chinook salmon PSC allocation.

(B) *CDQ groups.* NMFS will issue transferable Chinook salmon PSC allocations to the CDQ groups. The representative and agent for service of process for a CDQ group is the chief executive officer of the CDQ group, unless the chief executive officer notifies NMFS in writing that a different person will act as its agent for service of process. A CDQ group is not required to submit an application under paragraph (f)(8)(ii) of this section to receive a

transferable Chinook salmon PSC allocation.

(C) *Entity representing the AFA catcher/processor sector.* NMFS will authorize only one entity to represent the catcher/processor sector for purposes of receiving and managing transferable Chinook salmon PSC allocations on behalf of the catcher/processors eligible to fish under transferable Chinook salmon PSC allocations.

(1) NMFS will issue transferable Chinook salmon allocations under the 60,000 Chinook salmon PSC limit to the entity representing the catcher/processor sector if that entity represents all of the owners of AFA permitted vessels in this sector that are participants in an approved IPA.

(2) NMFS will issue transferable Chinook salmon allocations under the 47,591 Chinook salmon PSC limit to an entity representing the catcher/processor sector if that entity represents all of the owners of AFA permitted vessels in this sector.

(D) *Entity representing the AFA mothership sector.* NMFS will authorize only one entity to represent the mothership sector for purposes of receiving and managing transferable Chinook salmon PSC allocations on behalf of the vessels eligible to fish under transferable Chinook salmon PSC allocations.

(1) NMFS will issue transferable Chinook salmon allocations under the 60,000 Chinook salmon PSC limit to an entity representing the mothership sector if that entity represents all of the owners of AFA permitted vessels in this sector that are participants in an approved IPA.

(2) NMFS will issue transferable Chinook salmon allocations under the 47,591 Chinook salmon PSC limit to an entity representing the mothership sector if that entity represents all of the owners of AFA permitted vessels in this sector.

(ii) *Request for approval as an entity eligible to receive transferable Chinook salmon PSC allocations.* A representative of an entity representing the catcher/processor sector or the mothership sector may request approval by NMFS to receive transferable Chinook salmon PSC allocations on behalf of the members of the sector. The

application must be submitted to NMFS at the address in paragraph (b)(6) of this section. A completed application consists of the application form and a contract, described below.

(A) *Application form.* The applicant must submit a paper copy of the application form with all information fields accurately filled in, including the affidavit affirming that each eligible vessel owner, from whom the applicant received written notification requesting to join the sector entity, has been allowed to join the sector entity subject to the same terms and conditions that have been agreed on by, and are applicable to, all other parties to the sector entity. The application form is available on the NMFS Alaska Region Web site (<http://alaskafisheries.noaa.gov/>) or from NMFS at the address or phone number in paragraph (b)(6) of this section.

(B) *Contract.* A contract containing the following information must be attached to the completed application form:

(1) Information that documents that all vessel owners party to the contract agree that the entity, the entity's representative, and the entity's agent for service of process named in the application form represent them for purposes of receiving transferable Chinook salmon PSC allocations.

(2) A statement that the entity's representative and agent for service of process are authorized to act on behalf of the vessel owners party to the contract.

(3) *Certification of applicant.* Signatures, printed names, and date of signature for the owners of each AFA permitted vessel identified in the application.

(C) *Contract duration.* Once submitted, the contract attached to the application is valid until amended or terminated by the parties to the contract.

(D) *Deadline.* An application and contract must be received by NMFS no later than 1700 hours, A.l.t., on October 1 of the year prior to the year for which the Chinook salmon PSC allocations are effective.

(E) *Approval.* If more than one entity application is submitted to NMFS, NMFS will approve the application for

the entity that represents the most eligible vessel owners in the sector.

(F) *Amendments to the sector entity.*

(1) An amendment to sector entity contract, with no change in entity participants, may be submitted to NMFS at any time and is effective upon written notification of approval by NMFS to the entity representative. To amend a contract, the entity representative must submit a complete application, as described in paragraph (f)(8)(ii) of this section.

(2) To make additions or deletions to the vessel owners represented by the entity for the next year, the entity representative must submit a complete application, as described in paragraph (f)(8)(ii) of this section, by December 1.

(iii) *Entity Representative.* (A) The entity's representative must—

(1) Act as the primary contact person for NMFS on issues relating to the operation of the entity;

(2) Submit on behalf of the entity any applications required for the entity to receive a transferable Chinook salmon PSC allocation and to transfer some or all of that allocation to and from other entities eligible to receive transfers of Chinook salmon PSC allocations;

(3) Ensure that an agent for service of process is designated by the entity; and

(4) Ensure that NMFS is notified if a substitute agent for service of process is designated. Notification must include the name, address, and telephone number of the substitute agent in the event the previously designated agent is no longer capable of accepting service on behalf of the entity or its members within the 5-year period from the time the agent is identified in the application to NMFS under paragraph (f)(8)(ii) of this section.

(B) All vessel owners that are members of an inshore cooperative, or members of the entity that represents the catcher/processor sector or the mothership sector, may authorize the entity representative to sign a proposed IPA submitted to NMFS, under paragraph (f)(12) of this section, on behalf of the vessel owners that intend to participate in that IPA. This authorization must be included in the contract submitted to NMFS, under para-

graph (f)(8)(ii)(B) of this section, for the sector-level entities and in the contract submitted annually to NMFS by inshore cooperatives under § 679.61(d).

(iv) *Agent for service of process.* The entity's agent for service of process must—

(A) Be authorized to receive and respond to any legal process issued in the United States with respect to all owners and operators of vessels that are members of an entity receiving a transferable allocation of Chinook salmon PSC or with respect to a CDQ group. Service on or notice to the entity's appointed agent constitutes service on or notice to all members of the entity.

(B) Be capable of accepting service on behalf of the entity until December 31 of the year five years after the calendar year for which the entity notified the Regional Administrator of the identity of the agent.

(v) *Absent a catcher/processor sector or mothership sector entity.* If the catcher/processor sector or the mothership sector does not form an entity to receive a transferable allocation of Chinook salmon PSC, the sector will be managed by NMFS under a non-transferable allocation of Chinook salmon PSC under paragraph (f)(10) of this section.

(9) *Transfers of Chinook salmon PSC—*

(i) A Chinook salmon PSC allocation issued to eligible entities under paragraph (f)(8)(i) of this section may be transferred to any other entity receiving a transferable allocation of Chinook salmon PSC by submitting to NMFS an application for transfer described in paragraph (f)(9)(iii) of this section. Transfers of Chinook salmon PSC allocations among eligible entities are subject to the following restrictions:

(A) Entities receiving transferable allocations under the 60,000 PSC limit may only transfer to and from other entities receiving allocations under the 60,000 PSC limit.

(B) Entities receiving transferable allocations under the 47,591 PSC limit may only transfer to and from other entities receiving allocations under the 47,591 PSC limit.

(C) Chinook salmon PSC allocations may not be transferred between seasons.

(ii) *Post-delivery transfers.* If the Chinook salmon bycatch by an entity exceeds its seasonal allocation, the entity may receive transfers of Chinook salmon PSC to cover overages for that season. An entity may conduct transfers to cover an overage that results from Chinook salmon bycatch from any fishing trip by a vessel fishing on behalf of that entity that was completed or is in progress at the time the entity's allocation is first exceeded. Under § 679.7(d)(8)(ii)(C)(2) and (k)(8)(iv)(B), vessels fishing on behalf of an entity that has exceeded its Chinook salmon PSC allocation for a season may not start a new fishing trip for pollock in the BS on behalf of that same entity for the remainder of that season.

(iii) *Application for transfer of Chinook salmon PSC allocations—*(A) *Completed application.* NMFS will process a request for transfer of Chinook salmon PSC provided that a paper or electronic application is completed, with all information fields accurately filled in. Application forms are available on the NMFS Alaska Region Web site (<http://alaskafisheries.noaa.gov/>) or from NMFS at the address or phone number in paragraph (b)(6) of this section.

(B) *Certification of transferor—*(1) *Non-electronic submittal.* The transferor's designated representative must sign and date the application certifying that all information is true, correct, and complete. The transferor's designated representative must submit the paper application as indicated on the application.

(2) *Electronic submittal.* The transferor's designated entity representative must log onto the NMFS online services system and create a transfer request as indicated on the computer screen. By using the transferor's NMFS ID, password, and Transfer Key, and submitting the transfer request, the designated representative certifies that all information is true, correct, and complete.

(C) *Certification of transferee—*(1) *Non-electronic submittal.* The transferee's designated representative must sign and date the application certifying that all information is true, correct, and complete.

(2) *Electronic submittal.* The transferee's designated representative must log onto the NMFS online services system and accept the transfer request as indicated on the computer screen. By using the transferee's NMFS ID, password, and Transfer Key, the designated representative certifies that all information is true, correct, and complete.

(D) *Deadline.* NMFS will not approve an application for transfer of Chinook salmon PSC after June 25 for the A season and after December 1 for the B season.

(10) *Non-transferable Chinook salmon PSC allocations—*(i) All vessels belonging to a sector that is ineligible to receive transferable allocations under paragraph (f)(8) of this section, any catcher vessels participating in an inshore open access fishery, and all vessels fishing under the opt-out allocation under paragraph (f)(5) of this section will fish under specific non-transferable Chinook salmon PSC allocations.

(ii) All vessels fishing under a non-transferable Chinook salmon PSC allocation, including vessels fishing on behalf of a CDQ group, will be managed together by NMFS under that non-transferable allocation. If, during the fishing year, the Regional Administrator determines that a seasonal non-transferable Chinook salmon PSC allocation will be reached, NMFS will publish a notice in the FEDERAL REGISTER closing the BS to directed fishing for pollock by those vessels fishing under that non-transferable allocation for the remainder of the season or for the remainder of the year.

(iii) For each non-transferable Chinook salmon PSC allocation, NMFS will deduct from the B season allocation any amount of Chinook salmon bycatch in the A season that exceeds the amount available under the A season allocation.

(11) *Rollover of unused A season allocation—*(i) *Rollovers of transferable allocations.* NMFS will add any Chinook salmon PSC allocation remaining at the end of the A season, after any transfers under paragraph (f)(9)(ii) of this section, to an entity's B season allocation.

(ii) *Rollover of non-transferable allocations.* For a non-transferable allocation

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for the mothership sector, catcher/processor sector, or an inshore open access fishery, NMFS will add any Chinook salmon PSC remaining in that non-transferable allocation at the end of the A season to that B season non-transferable allocation.

(12) *Chinook salmon bycatch incentive plan agreements (IPAs)*— (i) *Minimum participation requirements.* More than

one IPA may be approved by NMFS. Each IPA must have participants that represent the following:

(A) *Minimum percent pollock.* Parties to an IPA must collectively represent at least 9 percent of the BS pollock quota. The percentage of pollock attributed to each sector, AFA permitted vessel, and CDQ group is as follows:

For each sector	The percent of BS pollock quota attributed to each sector	Percent of BS pollock quota used to calculate IPA minimum participation for each AFA permitted vessel and CDQ group is the value in
(1) Catcher/processor	36	Column H in Table 47a to this part.
(2) Mothership	9	Column H in Table 47b to this part.
(3) Inshore	45	Column H in Table 47c to this part.
(4) CDQ Program	10	Column F in Table 47d to this part.

(B) *Minimum number of unaffiliated AFA entities.* Parties to an IPA must represent any combination of two or more CDQ groups or corporations, partnerships, or individuals who own AFA permitted vessels and are not affiliated, as affiliation is defined for purposes of AFA entities in § 679.2.

(ii) *Membership in an IPA.*—(A) No vessel owner or CDQ group is required to join an IPA.

(B) For a vessel owner in the catcher/processor sector or mothership sector to join an IPA, that vessel owner must be a member of the entity representing that sector under paragraph (f)(8).

(C) For a CDQ group to be a member of an IPA, the CDQ group must sign the IPA and list in that IPA each vessel harvesting BS pollock CDQ, on behalf of that CDQ group, that will participate in that IPA.

(iii) *Request for approval of a proposed IPA.* The IPA representative must submit an application for approval of a proposed IPA to NMFS at the address in paragraph (b)(6) of this section. A completed application consists of the application form and the proposed IPA, described below.

(A) *Application form.* The applicant must submit a paper copy of the application form with all information fields accurately filled in, including the affidavit affirming that each eligible vessel owner or CDQ group, from whom the applicant received written notification requesting to join the IPA, has been allowed to join the IPA subject to

the same terms and conditions that have been agreed on by, and are applicable to, all other parties to the IPA. The application form is available on the NMFS Alaska Region Web site (<http://alaskafisheries.noaa.gov/>) or from NMFS at the address or phone number in paragraph (b)(6) of this section.

(B) *Proposed IPA.* The proposed IPA must contain the following information:

(1) *Name of the IPA.* The same IPA name submitted on the application form.

(2) *Representative.* The name, telephone number, and e-mail address of the IPA representative who submits the proposed IPA on behalf of the parties and who is responsible for submitting proposed amendments to the IPA and the annual report required under paragraph (f)(12)(vii) of this section.

(3) *Description of the incentive plan.* The IPA must contain a written description of the following:

(i) The incentive(s) that will be implemented under the IPA for the operator of each vessel participating in the IPA to avoid Chinook salmon bycatch under any condition of pollock and Chinook salmon abundance in all years;

(ii) The rewards for avoiding Chinook salmon, penalties for failure to avoid Chinook salmon at the vessel level, or both;

(iii) How the incentive measures in the IPA are expected to promote reductions in a vessel's Chinook salmon bycatch rates relative to what would

have occurred in absence of the incentive program;

(iv) How the incentive measures in the IPA promote Chinook salmon savings in any condition of pollock abundance or Chinook salmon abundance in a manner that is expected to influence operational decisions by vessel operators to avoid Chinook salmon; and

(v) How the IPA ensures that the operator of each vessel governed by the IPA will manage his or her Chinook salmon bycatch to keep total bycatch below the performance standard described in paragraph (f)(6) of this section for the sector in which the vessel participates.

(4) *Compliance agreement.* The IPA must include a written statement that all parties to the IPA agree to comply with all provisions of the IPA.

(5) *Signatures.* The names and signatures of the owner or representative for each vessel and CDQ group that is a party to the IPA. The representative of an inshore cooperative, or the representative of the entity formed to represent the AFA catcher/processor sector or the AFA mothership sector under paragraph (f)(8) of this section may sign a proposed IPA on behalf of all vessels that are members of that inshore cooperative or sector level entity.

(iv) *Deadline and duration—*(A) *Deadline for proposed IPA.* An application must be received by NMFS no later than 1700 hours, A.l.t., on October 1 of the year prior to the year for which the IPA is proposed to be effective.

(B) *Duration.* Once approved, an IPA is effective starting January 1 of the year following the year in which NMFS approves the IPA, unless the IPA is approved between January 1 and January 19, in which case the IPA is effective starting in the year in which it is approved. Once approved, an IPA is effective until December 31 of the first year in which it is effective or until December 31 of the year in which the IPA representative notifies NMFS in writing that the IPA is no longer in effect, whichever is later. An IPA may not expire mid-year. No party may join or leave an IPA once it is approved, except as allowed under paragraph (f)(12)(v)(C) of this section.

(v) *NMFS review of a proposed IPA—*(A) *Approval.* An IPA will be approved by NMFS if it meets the following requirements:

(1) Meets the minimum participation requirements in paragraph (f)(12)(i) of this section;

(2) Is submitted in compliance with the requirements of paragraph (f)(12)(ii) and (iv) of this section; and

(3) Contains the information required in paragraph (f)(12)(iii) of this section.

(B) *IPA identification number.* If approved, NMFS will assign an IPA number to the approved IPA. This number must be used by the IPA representative in amendments to the IPA.

(C) *Amendments to an IPA.* Amendments to an approved IPA may be submitted to NMFS and will be reviewed under the requirements of this paragraph (f)(12).

(1) An amendment to an approved IPA, with no change in the IPA participants, may be submitted to NMFS at any time and is effective upon written notification of approval by NMFS to the IPA representative. To amend an IPA, the IPA representative must submit a complete application, as described in paragraph (f)(12)(iii) of this section.

(2) An amendment to the list of IPA participants must be received by NMFS no later than 1700 hours, A.l.t., on December 1 and will be effective at the beginning of the next year. To amend the list of participants, the IPA representative must submit an application form, as described in paragraph (f)(12)(iii)(A) of this section.

(3) An amendment to the list of participants related to a replacement vessel, under paragraph (f)(7) of this section, may be submitted to NMFS at any time. To amend the list of participants for a replacement vessel, the IPA representative must submit the application form, as described in paragraph (f)(12)(iii)(A) of this section, and include a copy of the AFA permit issued under § 679.4 for the replacement vessel.

(D) *Disapproval—*(1) NMFS will disapprove a proposed IPA or a proposed amendment to an IPA for either of the following reasons:

(i) If the proposed IPA fails to meet any of the requirements of paragraphs (f)(12)(i) through (iii) of this section, or

(ii) If a proposed amendment to an IPA would cause the IPA to no longer be consistent with the requirements of paragraphs (f)(12)(i) through (iv) of this section.

(2) *Initial Administrative Determination (IAD).* If, in NMFS' review of the proposed IPA, NMFS identifies deficiencies in the proposed IPA that require disapproval of the proposed IPA, NMFS will notify the applicant in writing. The applicant will be provided 30 days to address, in writing, the deficiencies identified by NMFS. An applicant will be limited to one 30-day period to address any deficiencies identified by NMFS. Additional information or a revised IPA received after the 30-day period specified by NMFS has expired will not be considered for purposes of the review of the proposed IPA. NMFS will evaluate any additional information submitted by the applicant within the 30-day period. If the Regional Administrator determines that the additional information addresses deficiencies in the proposed IPA, the Regional Administrator will approve the proposed IPA under paragraphs (f)(12)(iv)(B) and (f)(12)(v)(A) of this section. However, if, after consideration of the original proposed IPA and any additional information submitted during the 30-day period, NMFS determines that the proposed IPA does not comply with the requirements of paragraph (f)(12) of this section, NMFS will issue an initial administrative determination (IAD) providing the reasons for disapproving the proposed IPA.

(3) *Administrative Appeals.* An applicant who receives an IAD disapproving a proposed IPA may appeal under the procedures set forth at § 679.43. If the applicant fails to file an appeal of the IAD pursuant to § 679.43, the IAD will become the final agency action. If the IAD is appealed and the final agency action is a determination to approve the proposed IPA, then the IPA will be effective as described in paragraph (f)(12)(iv)(B) of this section.

(4) While appeal of an IAD disapproving a proposed IPA is pending, proposed members of the IPA subject to the IAD that are not currently members of an approved IPA will fish under the opt-out allocation under paragraph (f)(5) of this section. If no

other IPA has been approved by NMFS, NMFS will issue all sectors allocations of the 47,591 Chinook salmon PSC limit as described in paragraph (f)(3)(iii)(B) of this section.

(vi) *Public release of an IPA.* NMFS will make all proposed IPAs and all approved IPAs and the list of participants in each approved IPA available to the public on the NMFS Alaska Region Web site (<http://alaskafisheries.noaa.gov/>).

(13) *IPA Annual Report.* The representative of each approved IPA must submit a written annual report to the Council at the address specified in § 679.61(f). The Council will make the annual report available to the public.

(i) *Submission deadline.* The IPA Annual Report must be postmarked or received by the Council no later than April 1, as follows

(A) For paragraphs (f)(13)(ii)(A) through (D) of this section, in each year following the year in which the IPA is first effective;

(B) For paragraphs (f)(13)(ii)(E) and (F) of this section, in 2013 and each year thereafter.

(ii) *Information requirements.* The IPA Annual Report must contain the following information:

(A) A comprehensive description of the incentive measures in effect in the previous year;

(B) A description of how these incentive measures affected individual vessels;

(C) An evaluation of whether incentive measures were effective in achieving salmon savings beyond levels that would have been achieved in absence of the measures;

(D) A description of any amendments to the terms of the IPA that were approved by NMFS since the last annual report and the reasons that the amendments to the IPA were made;

(E) Sub-allocation to each participating vessel of the number of Chinook salmon PSC and amount of pollock (mt) at the start of each fishing season, and number of Chinook salmon PSC and amount of pollock (mt) caught at the end of each season; and

(F) In-season transfers—(1) *Transfers among entities.* For in-season transfer of Chinook salmon PSC or pollock among AFA cooperatives, entities eligible to

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receive Chinook salmon PSC allocations, or CDQ groups, provide the following information:

- (i) Date of transfer;
- (ii) Name of transferor;
- (iii) Name of transferee;
- (iv) Number of Chinook salmon PSC transferred; and
- (v) Amount of pollock (mt) transferred.

(2) *Transfers among IPA vessels.* Transfers among vessels participating in the IPA provide the following information:

- (i) Date of transfer;
- (ii) Name of transferor;
- (iii) Name of transferee;
- (iv) Number of Chinook salmon PSC transferred; and
- (v) Amount pollock (mt) transferred.

(g) *BS Non-Chinook Salmon Bycatch Management*—(1) *Requirements for the non-Chinook salmon bycatch reduction intercooperative agreement (ICA)*—(i) *Application.* The ICA representative identified in paragraph (g)(2)(i)(B) of this section must submit a signed copy of the proposed non-Chinook salmon bycatch reduction ICA, or any proposed amendments to the ICA, to NMFS at the address in paragraph (b)(6) of this section.

(ii) *Deadline.* For any ICA participant to be exempt from closure of the Chum Salmon Savings Area as described at paragraph (e)(7)(ix) of this section and at § 679.22(a)(10), the ICA must be filed in compliance with the requirements of this section, and approved by NMFS. The proposed non-Chinook salmon bycatch reduction ICA or any amendments to an approved ICA must be postmarked or received by NMFS by December 1 of the year before the year in which the ICA is proposed to be effective. Exemptions from closure of the Chum Salmon Savings Area will expire upon termination of the initial ICA, expiration of the initial ICA, or if superseded by a NMFS-approved amended ICA.

(2) *Information requirements.* The ICA must include the following provisions:

(i) *Participants*—(A) The names of the AFA cooperatives and CDQ groups participating in the ICA. Collectively, these groups are known as parties to the ICA. Parties to the ICA must agree to comply with all provisions of the ICA.

(B) The name, business mailing address, business telephone number, business fax number, and business e-mail address of the ICA representative.

(C) The ICA also must identify one entity retained to facilitate vessel bycatch avoidance behavior and information sharing.

(D) The ICA must identify at least one third party group. Third party groups include any organizations representing western Alaskans who depend on non-Chinook salmon and have an interest in non-Chinook salmon bycatch reduction but do not directly fish in a groundfish fishery.

(ii) The names, Federal fisheries permit numbers, and USCG documentation numbers of vessels subject to the ICA.

(iii) Provisions that dictate non-Chinook salmon bycatch avoidance behaviors for vessel operators subject to the ICA, including:

(A) *Initial base rate.* The initial B season non-Chinook salmon base rate shall be 0.19 non-Chinook salmon per metric ton of pollock.

(B) *Inseason adjustments to the non-Chinook base rate calculation.* Beginning July 1 of each fishing year and on each Thursday during the B season, the B season non-Chinook base rate shall be recalculated. The recalculated non-Chinook base rate shall be the three week rolling average of the B season non-Chinook bycatch rate for the current year. The recalculated base rate shall be used to determine bycatch avoidance areas.

(C) *ICA Chum Salmon Savings Area notices.* On each Thursday and Monday after June 10 of each year for the duration of the pollock B season, the entity identified under paragraph (g)(2)(i)(C) of this section must provide notice to the parties to the salmon bycatch reduction ICA and NMFS identifying one or more areas designated “ICA Chum Savings Areas” by a series of latitude and longitude coordinates. The Thursday notice must be effective from 6 p.m. A.l.t. the following Friday through 6 p.m. A.l.t. the following Tuesday. The Monday notice must be effective from 6 p.m. A.l.t. the following Tuesday through 6 p.m. A.l.t. the following Friday. For any ICA

Salmon Savings Area notice, the maximum total area closed must be at least 3,000 square miles for ICA Chum Salmon Savings Area closures.

(D) *Fishing restrictions for vessels assigned to tiers.* For vessels in a cooperative assigned to Tier 3, the ICA Chum Salmon Savings Area closures announced on Thursdays must be closed to directed fishing for pollock, including pollock CDQ, for seven days. For vessels in a cooperative assigned to Tier 2, the ICA Chum Salmon Savings Area closures announced on Thursdays must be closed through 6 p.m. Alaska local time on the following Tuesday. Vessels in a cooperative assigned to Tier 1 may operate in any area designated as an ICA Chum Salmon Savings Area.

(E) *Cooperative tier assignments.* Initial and subsequent base rate calculations must be based on each cooperative's pollock catch for the prior two weeks and the associated bycatch of non-Chinook salmon taken by its members. Base rate calculations shall include non-Chinook salmon bycatch and pollock caught in both the CDQ and non-CDQ pollock directed fisheries. Cooperatives with non-Chinook salmon bycatch rates of less than 75 percent of the base rate shall be assigned to Tier 1. Cooperatives with non-Chinook salmon bycatch rates of equal to or greater than 75 percent, but less than or equal to 125 percent of the base rate shall be assigned to Tier 2. Cooperatives with non-Chinook salmon bycatch rates of greater than 125 percent of the base rate shall be assigned to Tier 3.

(iv) Internal monitoring and enforcement provisions to ensure compliance of fishing activities with the provisions of the ICA. The ICA must include provisions allowing any party of the ICA to bring civil suit or initiate a binding arbitration action against another party for breach of the ICA. The ICA must include minimum annual uniform assessments for any violation of savings area closures of \$10,000 for the first offense, \$15,000 for the second offense, and \$20,000 for each offense thereafter.

(v) Provisions requiring the parties to conduct an annual compliance audit, and to cooperate fully in such audit, including providing information re-

quired by the auditor. The compliance audit must be conducted by a non-party entity, and each party must have an opportunity to participate in selecting the non-party entity. If the non-party entity hired to conduct a compliance audit discovers a previously undiscovered failure to comply with the terms of the ICA, the non-party entity must notify all parties to the ICA of the failure to comply and must simultaneously distribute to all parties of the ICA the information used to determine the failure to comply occurred and must include such notice(s) in the compliance report.

(vi) Provisions requiring data dissemination in certain circumstances. If the entity retained to facilitate vessel bycatch avoidance behavior and information sharing under paragraph (g)(2)(i)(C) of this section determines that an apparent violation of an ICA Chum Salmon Savings Area closure has occurred, that entity must promptly notify the Board of Directors of the cooperative to which the vessel involved belongs. If this Board of Directors fails to assess a minimum uniform assessment within 180 days of receiving the notice, the information used by the entity to determine if an apparent violation was committed must be disseminated to all parties to the ICA.

(3) *NMFS review of the proposed ICA and amendments.* NMFS will approve the initial or an amended ICA if it meets all the requirements specified in paragraph (g) of this section. If NMFS disapproves a proposed ICA, the ICA representative may resubmit a revised ICA or file an administrative appeal as set forth under the administrative appeals procedures described at § 679.43.

(4) *ICA Annual Report.* The ICA representative must submit a written annual report to the Council at the address specified in § 679.61(f). The Council will make the annual report available to the public.

(i) *Submission deadline.* The ICA annual report must be postmarked or received by the Council by April 1 of each year following the year in which the ICA is first effective.

(ii) *Information requirements.* The ICA annual report must contain the following information:

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(A) An estimate of the number of non-Chinook salmon avoided as demonstrated by the movement of fishing effort away from Chum Salmon Savings Areas, and

(B) The results of the compliance audit required at § 679.21(g)(2)(v).

(h) *GOA Chinook Salmon PSC Management*—(1) *Applicability*. Regulations in this paragraph apply to vessels directed fishing for pollock with trawl gear in the Central and Western reporting areas of the GOA and processors taking deliveries from these vessels.

(2) *GOA Chinook salmon prohibited species catch (PSC) limits* (effective January 1, 2013).

(i) NMFS establishes an annual PSC limit of 18,316 Chinook salmon for vessels engaged in directed fishing for pollock in the Central reporting area of the GOA.

(ii) NMFS establishes an annual PSC limit of 6,684 Chinook salmon for vessels engaged in directed fishing for pollock in the Western reporting area of the GOA.

(3) *Chinook salmon PSC limit for the GOA pollock fishery C and D seasons in 2012*. (Effective from August 25, 2012, until November 1, 2012). NMFS establishes the GOA Chinook salmon PSC limits for the Central and Western GOA pollock fisheries during the 2012 C and D seasons as follows:

(i) A PSC limit of 8,929 Chinook salmon for vessels engaged in directed fishing for pollock in the Central reporting area of the GOA; and

(ii) A PSC limit of 5,598 Chinook salmon for vessels engaged in directed fishing for pollock in the Western reporting area of the GOA.

(4) *Salmon retention*. The operator of a vessel and the manager of a shoreside processor or SFP must not discard any salmon or transfer or process any salmon under the PSD program at § 679.26, if the salmon were taken incidental to a Central or Western GOA directed pollock fishery, until an observer at the processing facility that takes delivery of the catch is provided the opportunity to count the number of salmon and to collect any scientific data or biological samples from the salmon.

(5) *Salmon discard*. Except for salmon under the PSD program at § 679.26, all salmon must be discarded, following

notification by an observer that the number of salmon has been estimated and the collection of scientific data or biological samples has been completed.

(6) *Chinook salmon PSC closures in Pollock trawl gear fisheries*. If, during the fishing year, the Regional Administrator determines that vessels engaged in directed fishing for pollock in the Central reporting area or Western reporting area of the GOA will catch the applicable Chinook salmon PSC limit specified for that reporting area under paragraph (h)(2) of this section, NMFS will publish notification in the FEDERAL REGISTER closing the applicable regulatory area to directed fishing for pollock.

[61 FR 31230, June 19, 1996]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 679.21, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.fdsys.gov.

EFFECTIVE DATE NOTES: 1. At 77 FR 42636, July 20, 2012, § 679.21 was amended by adding paragraph (h)(2), effective Jan. 1, 2013.

2. At 77 FR 42636, July 20, 2012, § 679.21 was amended by adding paragraph (h)(3), effective Aug. 25, 2012, until Nov. 1, 2012.

§ 679.22 Closures.

(a) *BSAI*—(1) *Zone 1 (512) closure to trawl gear*. No fishing with trawl gear is allowed at any time in reporting Area 512 of Zone 1 in the Bering Sea subarea.

(2) *Zone 1 (516) closure to trawl gear*. No fishing with trawl gear is allowed at any time in reporting Area 516 of Zone 1 in the Bering Sea Subarea during the period March 15 through June 15.

(3) *Red King Crab Savings Area (RKCSA)*. Directed fishing for groundfish by vessels using trawl gear other than pelagic trawl gear is prohibited at all times, except as provided at § 679.21(e)(3)(ii)(B), in that part of the Bering Sea subarea defined as RKCSA in Figure 11 to this part.

(4) *Walrus protection areas*. From April 1 through September 30 of any fishing year, vessels with a Federal fisheries permit under § 679.4 are prohibited in that part of the Bering Sea subarea between 3 and 12 nm seaward of the baseline used to measure the territorial sea around islands named Round Island and The Twins, as shown on National Ocean Survey Chart 16315,